

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*  
State Engineer

Plaintiff,

vs.

ROMAN ARAGON, *et al.*,

Defendants.

6:69cv07941-BB -LFG

RIO CHAMA STREAM SYSTEM

Section 7, Cañones Creek

Subfile Nos. CHCC-003-0012  
CHCC-004-0015

**MOTION TO AMEND CONSENT ORDERS**  
**IN SUBFILES CHCC-003-0012 AND CHCC-004-0015**

COMES NOW the plaintiff State of New Mexico, *ex rel.* State Engineer and moves the Court to amend the Consent Orders entered for Subfile CHCC-003-0012 (El Barranco LLC) (filed February 7, 2008, Doc. No. 9090) and for Subfile CHCC-004-0015 (Mundy Ranch Inc.) (filed January 5, 2009, Doc. No. 9353) and as grounds therefore plaintiff states:

1. The “H.N.D. Ditch” is a private ditch or lateral in the Cañones Creek Subsection that takes water from Cañones Ditch No. 1 approximately 1½ miles below the point of the diversion on Cañones Creek for Cañones Ditch No. 1. The two ditches share the same point of diversion. The water rights under the H.N.D. Ditch were developed under a permit and license approved and issued by the New Mexico State Engineer (OSE No. 1544). The Consent Orders entered in Subfiles CHCC-003-0012 and CHCC-004-0015 failed to distinguish between water rights for lands irrigated by the H.N.D. Ditch and lands irrigated by Cañones Ditch No. 1, a community ditch established prior to 1907.
2. The Consent Orders entered in Subfiles CHCC-003-0012 and CHCC-004-0015 should

be amended to correctly describe the lands irrigated by the H.N.D. Ditch under a final license issued by the State Engineer.

3. Subsections E and F of the Consent Order entered for Subfile CHCC-003-0012 (El Branco LLC) (filed February 7, 2008, Doc. No. 9090) should be amended as follows:

**E. IRRIGATED LANDS (Surface Water Only):**

**Office of the State Engineer File No(s):** 1544

**Priority:** reserved for future determination by court order entered November 19, 2002.

**Source of Water:** Surface Water of Cañones Creek, a tributary of the Rio Chama.

**Purpose of Use:** IRRIGATION

**Point of Diversion:**

**Ditch:** H.N.D. Ditch

**Location:** X = 1,548,337 feet Y = 2,114,510 feet  
New Mexico State Plane Coordinate System, Central Zone, NAD 1983

**Location and Amount of Irrigated Acreage:**

Within the Tierra Amarilla Grant	35.0 acres
Total	35.00 acres

As shown on the attached revised Hydrographic Survey Map for Subfile No. CHCC-003-0012

**Amount of Water:** reserved for future determination by court order entered November 19, 2002.

**F. IRRIGATED LANDS (Surface Water Only):**

**Office of the State Engineer File No(s):** 1544

**Priority:** reserved for future determination by court order entered November 19, 2002.

**Source of Water:** Surface Water of Cañones Creek, a tributary of the Rio Chama.

**Purpose of Use:** IRRIGATION

**Point of Diversion:**

**Ditch:** H.N.D. Ditch

**Location:** X = 1,548,337 feet Y = 2,114,510 feet  
New Mexico State Plane Coordinate System, Central Zone, NAD 1983

**Location and Amount of Irrigated Acreage:**

Within the Tierra Amarilla Grant	37.4 acres
Total	37.4 acres

As shown on the attached revised Hydrographic Survey Map for Subfile No. CHCC-003-0012

**Amount of Water:** reserved for future determination by court order entered November 19, 2002.

4. Subsection A of the Consent Order entered for Subfile CHCC-004-0015 (Mundy Ranch Inc.) (filed January 5, 2009, Doc. No. 9353) should be amended as follows:

**A. IRRIGATED LANDS (Surface Water Only):**

**Office of the State Engineer File No(s):** 1544, 1544-A into RG-1091

**Priority:** reserved for future determination by court order entered November 19, 2002.

**Source of Water:** Surface Water of Cañones Creek, a tributary of the Rio Chama.

**Purpose of Use:** IRRIGATION

**Point of Diversion:**

**Ditch:** H.N.D. Ditch

**Location:** X = 1,548,337 feet Y = 2,114,510 feet

New Mexico State Plane Coordinate System, Central Zone, NAD 1983

**Location and Amount of Irrigated Acreage:**

Within the Tierra Amarilla Grant	239.8 acres
Total	239.8 acres

As shown on the attached revised Hydrographic Survey Map for Subfile No. CHCC-004-0015

**Amount of Water:** reserved for future determination by court order entered November 19, 2002.

5. Revised individual hydrographic survey maps showing the correct name of the ditch that irrigates the lands described above are attached hereto, and should be substituted for the subfile maps attached to the filed Consent Orders for Subfiles CHCC-003-0012 and CHCC-004-0015.

WHEREFORE, the plaintiff State of New Mexico requests the Court to amend the Consent Orders entered for Subfile CHCC-003-0012 (El Barranco LLC) (filed February 7, 2008, Doc. No. 9090) and for Subfile CHCC-004-0015 (Mundy Ranch Inc.) (filed January 5, 2009, Doc. No. 9353) as described in paragraphs 3 ,4 and 5 above.

Respectfully submitted,

/s/ Ed Newville  
EDWARD G. NEWVILLE  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 19<sup>th</sup> day of July, 2011 I filed the foregoing electronically through the CM/ECF system which caused the parties on the electronic service list, as more fully set forth in the Notice of Electronic Filing, to be served via electronic mail, and served the following parties via first class mail addressed as stated.

/s/ Ed Newville  
EDWARD G. NEWVILLE

Mundy Ranch Inc.  
P.O. Box 1087  
Chama, NM 87520

El Brannco LLC  
P.O. Box 2706  
Durango, CO 81302